

CAUSE NO. **2019CI15819**

**RACHEL RODRIGUEZ MEDINA AND
JESUS ELIAS GARCIA**

V.

**CESAR ORNELAS LAW, PLLC, CESAR
ORNELAS, II, CESAR ORNELAS, GROUP
OF LEGAL SPECIALTIES, LLC AND
MICHAEL DEAN McCOY**

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IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

**407th
JUDICIAL DISTRICT**

PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, Rachel Rodriguez Medina and Jesus Elias Garcia, complains of Defendants, Cesar Ornelas Law, PLLC, Cesar Ornelas, II, Cesar Ornelas, I, Group of Legal Specialties, LLC, and Michael Dean McCoy, and would respectfully show as follows.

**I
DISCOVERY CONTROL PLAN**

1. Based upon this Petition, this case should be controlled by a discovery control plan Level 3 pursuant to the Texas Rules of Civil Procedure, Rule 190.3.

**II
RULE 47 STATEMENT OF RELIEF**

2. In accordance with Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief between \$250,000 to \$500,000. This is not an expedited action.

**III
PARTIES**

3. Plaintiff, Rachel Rodriguez Medina, is a resident of Pecos, Texas and is the surviving biological mother of Ethan Medina, deceased, and brings this action in her individual and representative capacity. The last three digits of her social security number are 236.

4. Plaintiff, Jesus Elias Garcia, is a resident of Clint, Texas and is the surviving biological son of Eleazar Garcia, deceased, and brings this action in his individual and representative capacity. The last three digits of his social security are 333 and the last three digits of his driver's license are 336.

5. Defendant, Cesar Ornelas Law, PLLC, is a Texas Professional Limited Liability Company and may be served with citation by serving its registered agent, Cesar Ornelas, II, at his principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

6. Defendant, Cesar Ornelas, II, is an attorney with his principle place of business in San Antonio, Texas and may be served with citation by serving him at his principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

7. Defendant, Cesar Ornelas, I, is an individual residing in Cameron County, Texas and may be served at his principle residence, 32649 Edgewater Isle Drive, Los Fresnos, Texas 78566, or wherever he may be found.

8. Defendant, Group of Legal Specialties, LLC, is a Texas Limited Liability Company with its principle place of business in Cameron County, Texas and may be served by serving its registered agent, Cesar Ornelas, I, at 301 East Harrison Ave, Harlingen, Texas 78550, or wherever he may be found.

9. Defendant, Michael Dean McCoy, is an individual residing in Travis County, Texas and may be served with citation at his principle place of business, 421 W 3rd Street, Apartment 802, Austin, Texas 78701, or wherever he may be found.

V
JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over the controversy because the claims asserted in this Petition arose, in whole or in part, in Texas and the amount in controversy exceeds the minimum jurisdictional limits of this Court.

11. This Court has personal jurisdiction over each Defendant because the acts and omissions complained of herein occurred in Texas, each Defendant does and/or did do business in the State of Texas, has committed a tort, in whole or in part in Texas, is a resident and citizen of Texas, and/or has minimum contacts with the State of Texas during the period of time complained of herein.

12. Venue is properly laid in Bexar County, Texas because Defendants Cesar Ornelas, II and Cesar Ornelas Law, PLLC reside in and/or have a principal place of business in Bexar County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(2), (3). Proper venue for one Defendant is proper venue for all Defendants because these claims arise out of the same transaction, occurrence, or series of transactions or occurrences. *Id.* at § 15.005.

VI
FACTUAL BACKGROUND

13. This is a civil barratry case against Texas lawyer Cesar Ornelas, II (“Ornelas Jr.”), his law firm, Cesar Ornelas Law, PLLC (the “Ornelas Firm”), his father, Cesar Ornelas, I (“Ornelas Sr.”), and his father’s company, Group of Legal Specialties, LLC (“GLS”), arising out of a conspiracy to illegally and unethically solicit clients. At all material times, Ornelas Jr., Ornelas Sr., the Ornelas Firm and GLS, along with their employees or agents, were engaged in a conspiracy, partnership and/or joint venture to improperly and illegally solicit clients who were victims (or family members of victims) of catastrophic accidents, primarily from funeral homes owned by or associated with Ornelas Sr. The Plaintiffs in this lawsuit are unknowing victims of

this barratry scheme and they bring this action pursuant to Texas Government Code § 82.0651 to recover statutory damages, including penalties and attorneys' fees.

A. The Illegal Solicitation Venture.

14. Ornelas Jr. and his father have made it a family business to profit from the deaths and injuries of others. Ornelas Sr. is the owner of several funeral homes throughout Texas and the president of a "marketing firm" named Group of Legal Specialties, LLC ("GLS"). Under the guise of a "Business Development Manager" for GLS,¹ Ornelas Sr. illegally "develops business" for his son's law firm, the Ornelas Firm, through improper personal solicitation. Ornelas Sr. regularly sponsors meetings in the funeral home industry where he distributes brochures explaining to the funeral directors exactly how to solicit clients for his son's law firm.² These funeral directors are trained to refer any families with a potential lawsuit to GLS, who will then refer the families to Ornelas Firm. In exchange, the funeral directors would receive compensation and the families would receive paid funeral expenses.³

15. Ornelas Jr. is a young lawyer who graduated law school in 2016 but has allegedly already obtained more than \$20 million in settlements for his clients.⁴ Ornelas Jr. claims to have

¹ The business card for Ornelas Sr. looks like this:



² One such brochure is attached hereto as Exhibit 1.

³ See Exhibit 1.

⁴ <https://oinjurylaw.com/about-attorney-cesar-ornelas/>

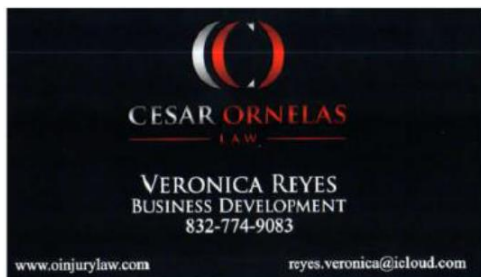
offices in Carlsbad, New Mexico, although he is not licensed to practice law there. In addition to obtaining cases solicited from his father's company GLS, Ornelas Jr. employs many of his own case runners, including Victor Chavez, Veronica Reyes and Sally Diaz. These case runners have business cards that state they do "Business Development" for the Ornelas Firm.⁵ Reyes has solicited most of the funeral homes in West Texas and Eastern New Mexico, seeking referrals for the Ornelas Firm and, at the instruction of Ornelas Jr., offering to pay referral fees to funeral directors. Some funeral directors have received more than \$100,000 for referring cases to the Ornelas Firm, while others have received lavish trips abroad, such as to Puerto Rico.

16. Because Ornelas Jr. is young and inexperienced, he often refers the cases he solicits to other lawyers, such as Liles White, LLC, a law firm based in Corpus Christi, Texas. The website for the Ornelas Firm listed Liles White as "of counsel" until about April 23, 2019 when it was removed. Because of their frequent and close relationship with Ornelas Jr., the lawyers at Liles White are well-aware of how Ornelas Jr. sources his cases.

B. The Illegal Solicitation of Rachel Rodriguez Medina

17. Ethan Medina was a high school student who died in a motor vehicle accident on January 25, 2019. Ethan was survived by his biological mother, Plaintiff Rachel Rodriguez Medina. On the day of her son's viewing at the funeral home, Tony Zuniga, the owner of Peaceful Garden Funeral Home in Pecos, Texas, solicited Rachel to hire the Ornelas Firm. More

⁵ The business card for one of the runners, Veronica Reyes, looks like this:



specifically, Zuniga told Rachel that he knew some good lawyers and gave her the business cards for Ornelas Sr. and Mike McCoy, an “Account Representative” at GLS.⁶ Rachel called McCoy, who she understood to be a lawyer, although he is not. McCoy connected Rachel with Sally Diaz of the Ornelas Firm who told her she had a good case and that Ornelas Jr. would pay for the funeral and give them money if they agreed to hire the Ornelas Firm. Rachel agreed, and Diaz came to the family’s home and had them sign various documents, but no copies were provided. However, the Ornelas Firm ultimately rejected the case.

C. The Illegal Solicitation of Jesus Elias Garcia

18. Eleazar Garcia died on December 31, 2018 in a tragic auto accident. Eleazar was survived by his common-law wife, Maria Orlano, and his children, son Plaintiff Jesus Elias Garcia and daughter Maria Garcia. Jesus and Maria met with Ms. Orlano at the Perches Funeral Home in El Paso, Texas to make arrangements for their father’s funeral. That funeral home is owned by Sal Perches, an individual who also owns more than 19 funeral homes, including one he owns together with Ornelas, Sr. At the funeral home, a “Business Developer” for the Ornelas Firm, Victor Chavez, personally solicited the family to hire the Ornelas Jr. and his firm. During the solicitation, Chavez called Ornelas Jr. who spoke with the family and told them that they had a big lawsuit as a result of Eleazar’s death and urged immediate action. Based on this solicitation, Ms. Orlano

⁶ This is McCoy’s business card that was given to Rachel by Zuniga:



agreed and hired the Ornelas Firm but Jesus and Maria declined and ultimately hired another law firm.

VII STATEMENT OF CLAIMS AND THEORIES OF LIABILITY

19. Therefore, it has become necessary to bring this suit to collect a legal and equitable debt of money damages owing to Plaintiffs due to the Defendants' conduct. Specifically, Plaintiffs bring claims against Defendants, jointly and severally, for civil barratry, civil conspiracy and aiding and abetting.

A. Civil Barratry Under Texas Government Code 82.0651

20. Section 82.0651 of the Texas Government Code allows a person who was solicited by conduct violating the Texas Penal Code or the Texas Disciplinary Rules of Professional Conduct prohibiting barratry to sue "any person who committed barratry" and recover damages, civil penalties and attorney's fees. *See* TEX. GOV'T CODE § 82.0651.

21. All Defendants, with intent to obtain an economic benefit, violated several provisions of the Texas Penal Code prohibiting barratry, including:

- Section 38.12(a)(2) which prohibits a person from soliciting employment, either in person or by telephone, for himself or another.
- Section 38.12(a)(3) which prohibits a person from paying or advancing or offering to pay or advance to a prospective client money or anything of value to obtain employment.
- Section 38.12(a)(4) which prohibits a person from paying or offering to pay third parties to solicit employment.
- Section 38.12(a)(6) which prohibits a person from accepting or agreeing to accept money or anything of value to solicit employment.

- Section 38.12(b)(1) which prohibits a person from knowingly financing the commission of barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) which prohibits a person from knowingly investing funds the person knows or believes are intended to further barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) of the Texas Penal Code prohibits a person, who is a professional, from knowingly accepting employment within the scope of their license that resulted from improper personal solicitation.

22. Furthermore, Ornelas Jr. and the Ornelas Firm violated Texas Disciplinary Rule of Professional Conduct 7.03. Section (a) of this rule prohibits a lawyer from seeking professional employment by in person or by telephone when the nonclient has not sought the lawyer's advice regarding employment or when no past or present attorney-client relationship exists when a significant motive is pecuniary gain. Section (b) of this rule prohibits a lawyer from paying or offering to pay anything of value to a person not licensed to practice law for soliciting prospective clients for or for referring prospective clients. Ornelas Jr. and the Ornelas Firm violated both these sections by through the conduct described herein.

B. Civil Conspiracy and Aiding and Abetting

23. As set forth above, Defendants were members of a combination of two or more persons. The object of the combination was to accomplish an unlawful purpose by unlawful means – the unlawful barratry and solicitation of Plaintiffs. The members, one or more of the Defendants herein and other third parties, had a meeting of the minds on the object or course of action, to gain the representation of Plaintiffs by illegal and unethical solicitation. As alleged above, one or more

of the members committed an unlawful, overt act in furtherance of the object or course of action. As such, Defendants are jointly and severally liable for each other's violations of Texas Government Code, Section 82.0651.

VIII VICARIOUS LIABILITY

24. Defendants are vicariously liable under a theory of partnership. Defendants, individually and through their respective firms or entities, formed various partnerships and entered into various agreements to associate for profit. Each Defendant received or had a right to receive a share of the profits, expressed intent to be a partner in the ventures, participated or had a right to participate in the control of the business, shared or agreed to share the losses of the business or liability, and/or contributed or agreed to contribute money. Accordingly, each Defendant is a member of the partnership formed for the purpose of carrying on the barratry activities described herein and each is liable for the conduct of one another as described herein all of which occurred within the course and scope of the partnership.

25. Defendants are also vicariously liable under a theory of joint enterprise or joint venture. Defendants were engaged in a joint enterprise or joint venture because they had express and implied agreements to carry out the actions outlined herein. Defendants had a community of pecuniary interest in that common purpose and an equal right to direct and control the enterprise or venture. Defendants each took actions in furtherance of the purpose of the joint enterprise, which was to commit barratry.

IX DEFENSES TO LIMITATIONS

26. To the extent necessary, Plaintiffs affirmatively plead the discovery rule, fraudulent concealment and/or the *Hughes* tolling rule to any defense of limitations asserted by Defendants regarding any of Plaintiffs' claims or causes of action. Plaintiffs did not discover, nor could they

have discovered through reasonable diligence, Defendants' barratry scheme. Acts of barratry are inherently undiscoverable. Even if Plaintiffs knew they had been solicited, they may not know, nor could they reasonably discover, that they had been wrongfully solicited and injured because of this solicitation.

X RESPONDEAT SUPERIOR

27. Plaintiffs plead the legal theory of *respondeat superior* as between the individual lawyers named herein and their respective law firms.

XI DAMAGES

28. Plaintiffs seek damages within the jurisdictional limits of this Court. Texas Government Code, Section 82.0651 provides that a person who prevails in a civil barratry action may recover from each Defendant actual damages, statutory damages in the amount of \$10,000 per violation per Defendant and reasonable and necessary attorney's fees. Defendants each committed no less than four acts of barratry in relation to the illegal and improper solicitation of the respective Plaintiffs. Therefore, each Defendant is liable to each Plaintiff for \$40,000. Accordingly, Plaintiff Rachel Rodriguez Medina seeks total statutory damages in the amount of \$180,000 and Plaintiff Jesus Elias Garcia seeks total statutory damages in the amount of \$160,000.

29. In addition, Plaintiffs seek reasonable and necessary attorney's fees. *See* TEX. GOV. CODE §§ 82.0651(b)(5), (d)(3).

XII JURY DEMAND

30. Plaintiffs desire to have a jury decide this case and make this formal request pursuant to Texas Rule of Civil Procedure 216. This request is filed more than thirty days before this case has been scheduled for trial and all fees have been paid.

XIII
REQUESTS FOR DISCLOSURE

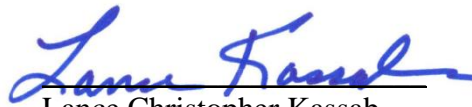
31. Plaintiffs request that Defendants disclose all information and documents required under Rule 194, Texas Rules of Civil Procedure within the time required under this rule.

XIV
PRAYER

WHEREFORE, Plaintiffs pray that after trial herein, that judgment be entered against Defendants jointly and severally as prayed for, that costs of court be taxed against Defendants, that Plaintiffs be given prejudgment as well as post judgment interest, and for such other and further relief, at law and in equity to which Plaintiffs may show themselves to be justly entitled, to which the Court believes Plaintiffs to be deserving, and for which Plaintiffs will ever pray.

Respectfully submitted,

THE KASSAB LAW FIRM



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